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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDIANARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.42 OF 2007

IN

NOTICE OF MOTION NO. 1613 OF 2003

IN

SUIT NO.1542 OF 2003

Sarvesh L.Agarwal .. Petitioner.

V/s.

Prakash Jayantilal Mehta .. Respondent

Mr.R.D.Dave i/b. N.N.Vaishnave for petitioner.
Mr.T.N.Subramaniyam i/b.Vimadalal & Co. for respondent.

CORAM:- S.C.DHARMADHIKARI, J.

DATED:- 4TH SEPTEMBER, 2007.

P.C.

1. The contempt petition was filed alleging breach and violation of order passed by this Court restraining the respondent/original defendant no.2/ contemnor from alienating, encumbering, transfering and disposing of in any manner the flat/immovable property more particularly described in the order of this Court.

2. When this contempt petition was placed before me for admission, Mr. Dave appearing for the

petitioner states that the petitioner/original plaintiff and the parties to the suit including respondent herein have amicably resolved and settled their disputes and claims. Under such circumstances, he prayed that appropriate orders be passed by this Court.

3. This is a contempt petition and there is clear case of violation and breach of the Courts order. It is well settled that the out come of the main litigation/proceeding need not influence the hearing of contempt petition. That matter has to be independently decided. Accordingly, I called upon the advocates appearing for the respondent to satisfy me with regard to the allegations and the averments in the contempt petition.

4. Today Mr.Subramanium, learned Senior Counsel appearing for the respondent tendered unconditional apology in writing to this Court. He submits that the flat has been disposed of. However, considering that the parties have amicably settled the matter and were desirous of resolving the dispute so also the settlement contemplates payment of certain sums, the flat/immovable property has been dealt with and disposed of.

5. He submits that the respondent/ contemnor is present in the court. He does not deny the charges against him. However, since an unconditional apology has been tendered and the main matter is settled, a lenient view may be taken.

6. Having perused the contempt petition and the order of this Court so also the affidavit, to my mind, there is absolutely no dispute that the order has been violated. The charges are not even denied or disputed. However, while convicting the respondent of contempt of this Court as he has deliberately and wilfully voilated the interim order of this court, I am not imposing any sentence in the light of the subsequent development. Since the matter has been resolved by the parties, despite conviction, I impose no sentence and by accepting the unconditional apology tendered to this Court close the contempt proceedings. The contempt petition is accordingly disposed of.

(S.C.DHARMADHIKARI, J.)